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E-FILED - 10/4/07

Attorneys for Defendant

CAPITAL MANAGEMENT SERVICES, GROUP, INC.

f/k/a CAPITAL MANAGEMENT SERVICES, INC.

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA-SAN JOSE DIVISION

KINH TONG

Plaintiff,

v.

CAPITAL MANAGEMENT
SERVICES, GROUP, INC. f/k/a
CAPITAL MANAGEMENT
SERVICES, INC., a New York
Corporation

Defendant.

CASE NO. C07 01026 - RMW- HRL
HON. RONALD M. WHYTE

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO CONTINUING
MEDIATION COMPLETION DATE**

Old Date: September 26, 2007
Proposed New Date: October 31, 2007

Defendant, CAPITAL MANAGEMENT SERVICES, GROUP, INC. f/k/a
CAPITAL MANAGEMENT SERVICES, INC. ("Defendant") by and through its
attorneys of record, Lewis Brisbois Bisgaard & Smith LLP and Plaintiff Kinh Tong
("Plaintiff") by and through his attorneys of record, Consumer Law Center, Inc.,
(collectively, "the parties") hereby jointly request a stipulation continuing the
mediation completion date in this matter through October 31, 2007 on the following
grounds:

Whereas, Thomas J. LoSavio of Low Ball & Lynch APC, was appointed to
mediate this matter on July 25, 2007;

///

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LOS ANGELES, CALIFORNIA 90012-2601
TELEPHONE (213) 250-1800

Whereas, through inadvertence, the Parties were only responded to by Mr. Losavio on September 4, 2007;

Whereas, on August 13, 2007, prior to being notified by the mediator, Defendant filed its motion for judgment on the pleadings which is set to be heard on September 28, 2007;

Whereas, Plaintiff filed its opposition to the judgment on the pleadings on September 6, 2007;

Whereas, Defendants reply is due on September 14, 2007;

Whereas, the current mediation completion date is set for September 26, 2007, two days before the hearing date on Defendants dispositive motion;

Whereas, the Parties and Mr. Losavio engaged in a conference call on September 10, 2007, wherein it was agreed that continuing the mediation completion date until the end of October would greatly enhance the parties ability to meaningfully resolve the instant action;

Whereas, during the September 10, 2007, conference call, the Parties discussed several dates in October during which a mediation could take place.

NOW, THEREFORE, IT IS HEREBY STIPULATED, by and between the parties, through their respective counsel and subject to approval by this Court that:

1. The mediation completion date, currently set for September 26, 2007, shall be continued through and including October 31, 2007;

2. The following stipulation may be signed in counterparts, each counterpart having the same effect as originals and that facsimile signatures shall be deemed to have the same effect as originals.

///

///

///


///

1 It is so Stipulated:

2 **Lewis Brisbois Bisgaard & Smith LLP**

3
4 Date: _____

By: _____


Stephen H. Turner
Brian Slome
Attorneys for Defendant

7 **Consumer Law Center Inc.**

8
9
10 Date: _____

By: _____

Fred W. Schwinn
Attorney for Plaintiff

11
12
13 The foregoing stipulation is agreed to in form and substance:

14 **Low Ball & Lynch APC**

15
16
17 Date: _____

By: _____

Thomas J. LoSavio

18
19
20 **ORDER:**

21 The Court has reviewed the foregoing stipulation of the parties and finds that good
22 cause exists to continue the mediation completion date in this matter from September
23 26, 2007, through and including October 31, 2007.

24
25 It is so Ordered

26
27 Date: _____

By: _____

Judge of the District Court

LEWIS BRISBOIS BISGAARD & SMITH LLP
221 NORTH FIGUEROA STREET, SUITE 1200
LOS ANGELES, CALIFORNIA 90012-2601
TELEPHONE (213) 250-1800

1 It is so Stipulated:

2 **Lewis Brisbois Bisgaard & Smith LLP**

3
4 Date: _____

By: _____
Stephen H. Turner
Brian Slome
Attorneys for Defendant

6
7 **Consumer Law Center Inc.**

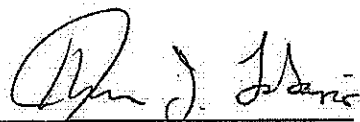
8
9
10 Date: _____

By: _____
Fred W. Schwinn
Attorney for Plaintiff

11
12
13 The foregoing stipulation is agreed to in form and substance:

14 **Low Ball & Lynch APC**

15
16
17 Date: 9/10/07

By: 
Thomas J. LoSavio

18
19
20 **ORDER:**

21 The Court has reviewed the foregoing stipulation of the parties and finds that good
22 cause exists to continue the mediation completion date in this matter from September
23 26, 2007, through and including October 31, 2007.

24
25 It is so Ordered

26
27 Date: _____

By: _____
Judge of the District Court

1 It is so Stipulated:

2 **Lewis Brisbois Bisgaard & Smith LLP**

3
4 Date: _____

5 By: _____
6 Stephen H. Turner
7 Brian Slome
8 Attorneys for Defendant

9 **Consumer Law Center Inc.**

10 Date: 9-10-07

11 By: 
12 Fred W. Schwinn
13 Attorney for Plaintiff

14 The foregoing stipulation is agreed to in form and substance:

15 **Low Ball & Lynch APC**

16
17 Date: _____

18 By: _____
19 Thomas J. LoSavio

20 **ORDER:**

21 The Court has reviewed the foregoing stipulation of the parties and finds that good
22 cause exists to continue the mediation completion date in this matter from September
23 26, 2007, through and including October 31, 2007.

24
25 It is so Ordered

26
27 Date: 9/24/07

28 By: Ronald M. Whyte
Judge of the District Court

*Re-Posted document due to system crash.

4825-4516-5057.1

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STIPULATION AND ~~IN PROPOSED~~ ORDER TO CONTINUING MEDIATION COMPLETION DATE

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TELEPHONE (213) 252-1539

CERTIFICATE OF SERVICE

I certify that on the 11th day of September, 2007, I electronically transmitted the foregoing document to the Clerk's office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Fred W. Schwinn
Consumer Law Center, Inc.
12 South First Street, Ste. 1014
San Jose, California 95113-2404

Thomas J. LoSavio
Low Ball & Lynch APC
505 Montgomery Street, 7th Floor
San Francisco, California 94111-2584

By: 
Stephanie Hickman

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